



Office of the Clerk
United States Bankruptcy Court, Northern District of California

INTERIM OPERATING ORDER

Federal Rule of Civil Procedure 83 and Federal Rules of Bankruptcy 5005(a)(2), 9006(f), 9011, 9022, 9029, and 9036 authorize this Court to establish practices and procedures for the filing, signing and verification of pleadings and papers by electronic means; and therefore,

IT IS ORDERED that:

1. ESTABLISHMENT OF ELECTRONIC CASE FILING PROCEDURES

The Clerk of Court for the United States Bankruptcy Court for the Northern District of California ("the Court") is hereby authorized to establish and promulgate Electronic Case Filing Procedures (the "ECF Procedures"), including the procedure for registration of attorneys and for distribution of passwords to permit electronic filing and notice of pleadings and other papers. The Clerk may modify the ECF Procedures from time to time, after conferring with the Chief Bankruptcy Judge and such others judges as he or she shall designate. The ECF Procedures shall be made available to the public in paper form in the clerk's office of each division and by posting on the Court's web site: i.e., www.canb.uscourts.gov (the "Web Site").

2. SCOPE OF ELECTRONIC FILING

a. On or after July 1, 2003 (the "Effective Date"), any and all cases and adversary proceedings filed or pending in the Court shall be, and hereby are, assigned to the Electronic Case Filing System (the "ECF System"). On and after the "Effective Date, a Registered Participant, as that term is defined below, may file documents with the Court electronically.

b. Initially, electronic filing shall be permissive, and the official case file shall remain the paper file. Those documents filed electronically may be printed and placed in the file or the file may contain a sheet indicating that the document is only available electronically as the Clerk determines is most efficient. At some time in the future, during this phase, the manager of a division may determine that it is practicable and most efficient to make the official case file the electronic file. If so, from then on, any documents filed in paper will be scanned into the ECF System. Reasonable advance notice of this decision will be posted in the divisional office and on the Web Site.

c. At some point thereafter, after reasonable advance notice, electronic filing shall become mandatory. With respect to all documents filed thereafter, the official file in all divisions shall be the electronic file. From this point on, all documents filed in all pending cases must be either filed electronically or scanned into the ECF System. and these documents will only be accessible electronically. However, documents previously filed will not be scanned into the system, and the official file with respect to these documents will remain the paper file.

3. ELECTRONIC FILING OF DOCUMENTS

a. The electronic transmission of a document to the Court in a manner consistent with the ECF Procedures, together with the Court's return transmission of a "Notification of Electronic Filing," shall constitute the filing of the document and its entry on the Court's docket for purposes of FRBP 5003.

b. Electronically filed documents must comply with all Local Bankruptcy Rules of the Court with respect to form and length.

4. LOGINS AND PASSWORDS

a. Each attorney in good standing with the Court (and such others as the Court deems appropriate) is eligible to become a Registered Participant which will entitle the Registered Participant to receive an ECF System login and password. To become a Registered Participant, the person must receive training by the Court unless the Clerk is satisfied that the person has already received adequate training in another district. *Pro se* parties and bankruptcy petition preparers may not be Registered Participants unless permitted by the Court.

b. Only the Registered Participant, another attorney in the Registered Participant's office, or an employee of the Registered Participant or his or her law office staff may use the Registered Participant's login and password. The Registered Participant shall be responsible for any filings made using his or her login and password. Misuse of the ECF System's login and password may result in the revocation of the Registered Participant's login and password privileges and possibly the imposition of sanctions.

c. A Registered Participant who electronically files a document with the Court shall be deemed to have certified under penalty of perjury that he or she has personally reviewed the document, is in good standing with the State Bar of all states in which the attorney is authorized to practice, and is authorized to appear in this Court.

d. A Registered Participant may withdraw from participation in the ECF System by providing the Clerk's Office with a written notice of withdrawal in the required form and by providing at least ten days notice to all Registered Participants who are, or who represent, parties in interest in cases assigned to the ECF System in which the withdrawing Registered Participant has entered an appearance.

5. ORDERS

a. When the Court deems the official record of a case to be the electronic record, the Court shall cause all orders, decrees, judgments and proceedings of the Court to be filed electronically and entered on the Court docket for purposes of FRBP 5003 and 9021.

b. Until further notice, each judge shall determine how he or she wishes proposed forms of

orders to be submitted. The procedure applicable to each judge shall be posted in the relevant division and on the Web Site. Judges may sign orders manually or by any electronic means permitted by Rule 5005(a)(2) of the Federal Rules of Bankruptcy Procedure, or may use docket text orders.

6. EXHIBITS AND ATTACHMENTS

An exhibit or attachment longer than 25 pages may be filed if created from a word processing (text) file. However, exhibits and attachments created by scanning (imaging) must be filed in 25 page segments.

7. DOCUMENTS FILED UNDER SEAL

Documents ordered to be placed under seal must be delivered to the Clerk conventionally in paper form, and not electronically, unless specifically authorized by the Court. Unless electronic filing is still in the permissive phase, a Registered Participant's motion for authority to file a document under seal must be filed electronically (**unless prohibited by applicable non-bankruptcy law**). A paper copy of the order authorizing the filing under seal must be delivered to the Clerk with the documents that the Registered Participant wishes to be filed under seal.

8. SIGNATURES AND VERIFIED PLEADINGS

a. The ECF Procedures shall describe the procedure for designating that a document filed electronically with the Court has been signed. Each such document shall bear the typed name of the person purporting to have signed the document.

b. The electronic filing of a document purportedly signed by the Registered Participant shall be deemed signed by the Registered Participant for purposes of FRBP 9011 as well as any other applicable rules or statutes.

c. The electronic filing of a document purportedly signed by someone other than the Registered Participant, including but not limited to the petition, statement of financial affairs, and schedules of assets and liabilities, shall be deemed a certification by the Registered Participant that he or she has the document in question, bearing the person's original signature, in his or her physical possession. The Registered Participant must produce the original signed document on request by the Court.

9. RETENTION REQUIREMENTS

With respect to any document filed electronically that purports to be signed by someone other than the Registered Participant, the Registered Participants shall retain the document bearing the original signature until five years after the case or adversary proceeding in which the document was filed is closed.

10. NOTICE OF ELECTRONIC FILING AND SERVICE

Whenever a document is filed electronically, a Notification of Electronic Filing will be automatically generated by the ECF System and will be sent electronically to the attorney filing the document, as well as to all counsel who are Registered Participants in the ECF System who have requested Notification of Electronic Filing. Registered Participants may request Electronic Notification of Filing in cases in which they represent a party. Until further rules changes, such a request does not waive the right of a Registered Participant to service by traditional means, and Electronic Notification does not constitute notice as otherwise required by law. Service must continue to be made on and notice must continue to be given to all persons, including Registered Participants, by first-class mail or other non-electronic means, unless the party to be served has consented in writing to electronic service pursuant to FRCP 5(b)(2)(D). *The request for Electronic Notice of Filing is not such consent.*

11. TECHNICAL FAILURE

A Registered Participant whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court. The Court shall determine whether a technical failure has occurred on a case by case basis.

12. FEES

For filings that require a fee to be paid, the CM/ECF system will prompt the filer (Registered Participant) to enter credit card information (card number and expiration date) and the payment amount, following the transaction. *Credit Card Authorization Forms* are no longer required by the court for CM/ECF credit card transactions. The credit card receipt shall include a reference to the case and docket number.

13. MANDATORY REQUIREMENT FOR ATTORNEYS TO FILE ELECTRONICALLY VIA CM/ECF

a. Effective January 1, 2005, all attorneys practicing in the U.S. Bankruptcy Court for the Northern District of California, including attorneys admitted pro hac vice, are required to file all documents (including new bankruptcy case petitions but excluding proofs of claim and documents to be placed under seal in accordance with Section 7 of this Interim Operating Order) electronically via the CM/ECF system.

b. Any document required to be filed electronically in accordance with subsection 13a. of this order but presented by an attorney in paper form on or after January 1, 2005 shall be accompanied by an application for an exemption from this rule and a proposed order granting the application. Said application shall state the reason(s) why electronic filing would impose an extreme hardship on the attorney. In the event that the court denies any such application, the court may also, in its discretion, order the document stricken, or impose such other conditions on the filing as the court deems proper to preclude future violations.

c. Any attorney who files a document in violation of this rule, including documents that are not accompanied by an application that alleges an extreme hardship that is colorable and reasonable, may be subject to monetary or nonmonetary sanctions pursuant to Local Bankruptcy Rule 9011-1.

This order shall become effective on July 1, 2003.